

House File 497 - Introduced

HOUSE FILE _____
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MERTZ, and DE BOEF

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to minors and public intoxication or possession
2 of alcohol and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1807HH 83
5 rh/rj/5

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1 1 Section 1. Section 123.46, subsection 4, Code 2009, is
1 2 amended to read as follows:
1 3 4. a. A peace officer shall make a reasonable effort to
1 4 identify a person under the age of eighteen who violates this
1 5 section and, ~~if the person is not referred to juvenile court,~~
~~1 6 the law enforcement agency of which the peace officer is an~~
~~1 7 employee shall make a reasonable attempt to notify the~~
1 8 person's custodial parent, ~~or legal guardian, or custodian of~~
1 9 the violation, ~~whether or not the person is taken into~~
~~1 10 custody, unless the officer has reasonable grounds to believe~~
~~1 11 that notification is not in the best interests of the person~~
~~1 12 or will endanger that person pursuant to section 232.19,~~
1 13 subsection 3.
1 14 b. The peace officer shall also make a reasonable effort
1 15 to identify the elementary or secondary school which the
1 16 person attends if the person is enrolled in elementary or
1 17 secondary school and to notify the superintendent or the
1 18 superintendent's designee of the school which the person
1 19 attends, or the authorities in charge of the nonpublic school
1 20 which the person attends, of the violation. ~~If the person is~~
~~1 21 taken into custody, the~~ The peace officer shall notify a
1 22 juvenile court officer who shall make a reasonable effort to
1 23 identify the elementary or secondary school the person
1 24 attends, if any, and to notify the superintendent of the
1 25 school district or the superintendent's designee, or the
1 26 authorities in charge of the nonpublic school, of the
1 27 violation. A reasonable attempt to notify the person
1 28 includes, but is not limited to, a telephone call or notice by
1 29 first-class mail.
1 30 Sec. 2. Section 123.47, subsection 3, paragraph a,
1 31 subparagraph (1), Code 2009, is amended to read as follows:
1 32 (1) A simple misdemeanor punishable ~~as a scheduled~~
~~1 33 violation under section 805.8C, subsection 7 by a fine of two~~
~~1 34 hundred dollars. In addition, if the person is under the age~~
~~1 35 of eighteen, the court shall notify the person's custodial~~
2 1 parent, legal guardian, or custodian, and if the person is
2 2 enrolled in elementary or secondary school, shall notify the
2 3 superintendent or the superintendent's designee of the school
2 4 which the person attends, or the authorities in charge of the
2 5 nonpublic school which the person attends, of the violation.
2 6 Sec. 3. Section 123.47B, Code 2009, is amended to read as
2 7 follows:
2 8 123.47B PARENTAL AND SCHOOL NOTIFICATION == PERSONS UNDER
2 9 EIGHTEEN YEARS OF AGE.
2 10 1. A peace officer shall make a reasonable effort to
2 11 identify a person under the age of eighteen discovered to be
2 12 in possession of alcoholic liquor, wine, or beer in violation
2 13 of section 123.47 and ~~if the person is not referred to~~
~~2 14 juvenile court, the law enforcement agency of which the peace~~
~~2 15 officer is an employee shall make a reasonable attempt to~~
2 16 notify the person's custodial parent, ~~or legal guardian, or~~
2 17 custodian of such possession, ~~whether or not the person is~~

2 18 arrested or a citation is issued pursuant to section 805.16,
2 19 ~~unless the officer has reasonable grounds to believe that such~~
2 20 ~~notification is not in the best interests of the person or~~
2 21 ~~will endanger that person.~~

2 22 2. The peace officer shall also make a reasonable effort
2 23 to identify the elementary or secondary school which the
2 24 person attends if the person is enrolled in elementary or
2 25 secondary school and to notify the superintendent or the
2 26 superintendent's designee of the school which the person
2 27 attends, or the authorities in charge of the nonpublic school
2 28 which the person attends, of the possession. ~~If the person is~~
2 29 ~~taken into custody, the~~ The peace officer shall notify a
2 30 juvenile court officer who shall make a reasonable effort to
2 31 identify the elementary or secondary school the person
2 32 attends, if any, and to notify the superintendent of the
2 33 school district or the superintendent's designee, or the
2 34 authorities in charge of the nonpublic school, of the taking
2 35 into custody. A reasonable attempt to notify the person
3 1 includes but is not limited to a telephone call or notice by
3 2 first-class mail.

3 3 Sec. 4. Section 232.8, subsection 1, paragraph b, Code
3 4 2009, is amended to read as follows:

3 5 b. ~~Violations Except for violations by a child of section~~
3 6 ~~321.284 or 321.284A, violations by a child of provisions of~~
3 7 ~~chapter 321, 321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B,~~
3 8 ~~483A, 484A, or 484B, which would be simple misdemeanors if~~
3 9 ~~committed by an adult, and violations by a child of county or~~
3 10 ~~municipal curfew or traffic ordinances, are excluded from the~~
3 11 ~~jurisdiction of the juvenile court and shall be prosecuted as~~
3 12 ~~simple misdemeanors as provided by law. A child convicted of~~
3 13 ~~a violation excluded from the jurisdiction of the juvenile~~
3 14 ~~court under this paragraph shall be sentenced pursuant to~~
3 15 ~~section 805.8, where applicable, and pursuant to section~~
3 16 ~~903.1, subsection 3, for all other violations.~~

3 17 Sec. 5. Section 805.8A, subsection 14, paragraph e, Code
3 18 2009, is amended to read as follows:

3 19 e. OPEN CONTAINER VIOLATIONS. For violations under
3 20 sections 321.284 and 321.284A, the scheduled fine is one
3 21 hundred dollars. ~~This subsection shall not apply to a person~~
3 22 ~~under the age of eighteen who commits a violation of section~~
3 23 ~~123.47.~~

3 24 Sec. 6. Section 805.8C, subsection 7, Code 2009, is
3 25 amended by striking the subsection.

3 26 Sec. 7. Section 805.16, subsection 1, Code 2009, is
3 27 amended to read as follows:

3 28 1. ~~Except as provided in this subsection and in subsection~~
3 29 ~~2 of this section,~~ a peace officer shall issue a police
3 30 citation or uniform citation and complaint, in lieu of making
3 31 a warrantless arrest, to a person under eighteen years of age
3 32 accused of committing a simple misdemeanor under chapter 321,
3 33 321G, 321I, 461A, 461B, 462A, 481A, 481B, 483A, 484A, 484B, or
3 34 a local ordinance not subject to the jurisdiction of the
3 35 juvenile court, and shall not detain or confine the person in
4 1 a facility regulated under chapter 356 or 356A. ~~This~~
4 2 ~~subsection shall not apply to a person under the age of~~
4 3 ~~eighteen for violations of section 123.46, 123.47, 321.284, or~~
4 4 ~~321.284A.~~

4 5 EXPLANATION

4 6 This bill relates to minors and public intoxication or
4 7 possession of alcohol.

4 8 The bill repeals a provision in the Code making first
4 9 offense possession of alcohol violations for persons under
4 10 legal age a scheduled violation and instead makes all
4 11 possession of alcohol violations for persons under legal age a
4 12 simple misdemeanor, punishable by a fine of \$200. The bill
4 13 also requires that if the person is under the age of 18, the
4 14 court shall notify the person's custodial parent, legal
4 15 guardian, or custodian, and, if the person is enrolled in an
4 16 elementary or secondary school, the appropriate school
4 17 personnel.

4 18 The bill makes conforming Code changes to provisions
4 19 relating to notification of a minor's custodial parent, legal
4 20 guardian, or custodian by a peace officer and citations issued
4 21 in lieu of arrest by a peace officer to a minor who commits
4 22 the crime of public intoxication pursuant to Code section
4 23 123.46 or who is found to be in possession of alcohol pursuant
4 24 to Code section 123.47, including open container violations
4 25 that occur in a motor vehicle pursuant to Code sections
4 26 321.284 and 321.284A, consistent with the bill.

4 27 LSB 1807HH 83

4 28 rh/rj/5

